

Arkansas State Board of Embalmers and Funeral Directors
Board Meeting

MINUTES

Thursday, January 21, 2016
101 East Capitol Avenue
Arkansas River Room, 3rd Floor
Little Rock, AR
9:00 a.m. –12:30 p.m.

Chairman James Terry Woodard called the meeting to order. Members present were: Bobby Burns, Patricia Roberts, and Sylvester Smith. Members absent were: Vice Chairman Bobby Thurman, Ben Brazzel, and John Wilkerson. Staff that were present: Amy Goode, Executive Secretary and Nina Carter, Board Counsel.

1. **Call to Order**- Introduction of Board members and anyone wishing to speak before the Board today.
2. **Agenda Adoption** Motion made by Burns to adopt the agenda as written, seconded by Roberts, all in favor.

Motion carried.

3. **Hearings**

- a. ***Case#15-36 – In the Matter of: Brandon's Mortuary, a Type A License Funeral Establishment and Alberta Brandon, a Licensed Funeral Director and Manager***

Executive Director/Attorney Greg Kirkpatrick served as Hearing Officer and swore in witnesses.
Assistant Attorney General Nina Carter represented the Board.
Alberta Brandon and Kevin Brandon represented themselves.
Amy Goode – Executive Secretary witness for the Board.
Vanilla Golston – complainant witness for the Board.
David Yeager – witness for the Board.
Court Reporter – Tiffanie Harrison - Harrison Court Reporting.
Mr. Kirkpatrick swore in the witnesses for the record.

Hearing Officer Greg Kirkpatrick called the hearing on the record and explained the purpose of the hearing. Mr. Kirkpatrick explained that the Board would base its decision solely on evidence presented today and that this hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will give latitude in presenting testimony and evidence. This hearing is subject to the Freedom of Information Act and is open to the public. Kirkpatrick allowed Ms. Carter to enter Board compilation exhibits 1-3 after the consideration of all parties and there were no objections.

FINDINGS OF FACT

- F.1. Respondent Brandon's Mortuary was licensed as a Funeral Establishment Type A in the State of Arkansas at all times relevant to this complaint.
- F.2. Respondent Alberta Brandon held a funeral director's license issued by the Board and served as the licensed funeral director under whose general management and supervision Brandon's Mortuary, a licensed Funeral Establishment Type A, operates. In connection with all

matters described in this hearing notice, Respondent Alberta Brandon was so licensed at all times relevant to the matters addressed herein.

F.3. On September 21, 2015, the Board received a complaint from Vanilla Yerger-Golston ("Complainant").

F.4. Complainant alleged that on July 26, 2013, she contacted Respondents to pick up her deceased son Thomas Lee Yerger, Jr.

F.5. Complainant alleged that Respondent Brandon made a personal house call to her home on July 29, 2013, and gave her paperwork which enabled her to withdraw money from her son's bank account.

F.6. Complainant alleged Respondent Brandon sent Kevin Brandon, son of Respondent Brandon, to retrieve money in the amount of five thousand one hundred thirty-three dollars and sixty cents (\$5,133.60).

F.7. Complainant alleged that she asked Kevin Brandon for her bill and he stated that he did not have the bill with him, that Respondent had given Ms. Golston her bill earlier for the cost of the funeral in the amount of seven thousand one hundred forty dollars and sixty-three cents (\$7,140.63).

F.8. Complainant alleged she was charged for a full service, but does not believe that was what she received.

F.9. Complainant alleged she has asked for an itemized statement and has never received one.

F.10. Complainant alleged she paid cash to Kevin Brandon and allege that Respondents were to file on her son's insurance and reimburse the money back to her.

Motion made by Burns that factual allegations A.1.-A.7., A.10, A.13. - A.14., be found proven, factual allegations A.8. – A.9., A.11.-A.12., not proven, seconded by Smith, all in favor. Motion carried.

CONCLUSIONS OF LAW

C.4 Board Rule XII.4. requires every funeral firm and/or funeral director or embalmer in the State of Arkansas to comply with all requirements of the Federal Trade Commission ("FTC") as they apply to funeral service. Respondents' actions, as set forth above, are in violation of the FTC Rules, Title 16, Part 453.2 which provides that every funeral firm must give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements.

Motion made by Burns that charges C.1. – C. 3. were not proven and charge C. 4 was proven, seconded by Roberts, all in favor. Motion carried.

ORDER

Based upon the evidence of record and the foregoing Findings of Facts and Conclusions of Law, the Board finds the following:

A. A Letter of Reprimand for the violation of the Price Disclosure Rule is appropriate, and this Order shall be deemed as the issuance of that Reprimand.

B. Respondents shall pay a fine in the amount of \$375, payable within sixty (60) days of the date the Order is signed. The imposition of the fine will be suspended upon submission of proof to the Board that Respondents have refunded the embalming charges to the Complainant.

Motion made by Burns to issue a letter of reprimand for not having a signed itemized statement and a three hundred seventy-five dollar (\$375) penalty be assessed. Penalty will be forgiven upon proof of refund in the amount of three hundred seventy-five dollars (\$375) to Ms. Golston within sixty (60) days from the date of the order, seconded by Roberts, all in favor. Motion carried.

4. **Hiring committee recommendation to hiring official** – The committee gave the hiring official the permission to proceed with hiring potential candidate.

5. **Administrative**

- a. **Approval of November 2015 Board minutes** - Motion made by Roberts to approve the November 2015 board meeting minutes as delivered with no necessary corrections, seconded by Smith, all in favor. Motion carried.
- b. **Approval of December and January teleconference minutes** - Motion made by Roberts to approve the December 2015 and January 2015 teleconference board meeting minutes as delivered with no necessary corrections, seconded by Roberts, all in favor. Motion carried.
- c. **Approval of November – December 2015 DF&A financial reports and trial balance** - . Motion made by Roberts to approve the November through December 2015 DF&A financial reports, seconded by Smith, all in favor. Motion carried

6. **Complaints**

- a. **Case #15-38 – Farr, Keith V. Kenneth Robinson and Robinson Mortuary** – Motion made by Smith to set for hearing, seconded by Burns, all in favor. Motion carried.
- b. **Case #15-39 – Bretherick, Gwen V. Angela Rhodes and Rhodes & Sons Funeral Home** – Motion made by Burns to issue a letter of warning for specifically not responding to complaint in a timely manner, which would constitute a violation of Ark. Code Ann. § 17-29-311 (a)(18) for failure to answer a complaint within the fifteen-day time period, seconded by Roberts, all in favor. Motion carried.
- c. **Case #15-40 – Shoemake, James, Dallas Institute of Funeral Service V. Terrio Williams** – Motion made by Burns to issue a letter of warning for alleged conduct which would constitute a violation of Ark. Code Ann. § 17-29-311 (a) (2) for misrepresentations made or fraud committed as a holder of a license; and (3) for false or misleading advertising, seconded by Roberts, all in favor. Motion carried.
- d. **Case #15-41 – Gunn, Derrick V. Christopher D. Ross** - Motion made by Burns to issue a letter of warning for alleged conduct which would constitute a violation of Ark. Code Ann. §17-29-311 (a) (2) for misrepresentations made or fraud committed as a holder of a license; and (3) for false or misleading advertising, seconded by Roberts, all in favor. Motion carried.
- e. **Case #15-42 – Thrower, Sallie V. Na'Keena Brown and Reddick Funeral Home** – Motion made by Burns to table for further investigation, seconded by Roberts, all in favor. Motion carried.
- f. **Case #15-43 – Board V. Beulah Kincaid and Kincaid Funeral Service** – Motion made by Smith to set for hearing, Terry Woodard indicated he would recuse himself, seconded by Burns, all in favor. Motion carried.
- g. **Case #15-44 – Board V. Jeff Crites and Bishop-Crites Crematory** - Motion made by Smith to set for hearing, Terry Woodard indicated he would recuse himself, seconded by Burns, all in favor. Motion carried.

- ## **Agenda**
- h. Case #15-45 – Board V. Blake Ruff and Ruff Mortuary -** Motion made by Smith to set for hearing, Terry Woodard indicated he would recuse himself, seconded by Burns, all in favor. Motion carried.
 - 7. Inspector Updates – See attached Word Document.**
 - 8. Attorney updates – Nina Carter**
 - a. 2014 Appeal status - Javier Buck and Richardson Memorial Funeral Home –** In the process of getting it set for a hearing.
 - b. 2014 Appeal status– Effie Collins and Collins Chapel –** remains on a monitoring status. Boards Order still stands.
 - c. 2011 Appeal Status - Elmer Davis –** remains on a monitoring status. Boards Order still stands.
 - 9. New Business discussion**
 - a. 2016 Annual ICFSEB Convention February 23 – 25, 2016**
 - i. Executive Secretary Amy Goode and one other board member to attend. We need to consider ones who have not ever had the opportunity to go in the past. The room cost is \$169 (plus tax and fees). The Board needs motion to approve the room rate that exceeds standards and travel from February 22-26, 2016.** Motion made by Roberts to approve the Executive Secretary and Sylvester Smith to attend, also approving the dates of travel from February 22 – February 26 and the room rate that exceeds the standard rate, seconded by Burns, all in favor. Motion carried.
 - b. 2016 Annual Board Stipends and travel reimbursement in accordance with A. C. A § 25-16-904.** Motion made by Burns to approve for calendar year 2016 stipends and travel reimbursement for the Board, seconded by Roberts, all in favor. Motion carried.
 - c. Bailey Funeral Home Request – Request renewal fee to be reimbursed.** Motion made by Smith to refund the renewal fee, since they closed the establishment on December 31, 2015, in Magnolia, seconded by Burns, all in favor. Motion carried.
 - d. 2015-2016 Rule Promulgation –No discussion**
 - e. Any other new business – Model Practice License Application -** Executive Secretary explained this was a model application that the Conference introduced for consideration and feedback. Board to consider adopting and using an application in the future in full or part.
 - 10. Old business discussion**
 - a. Bernice Johnson V. W. H. Johnson – Case #15-30 – update –** Arkansas Insurance Department closed case on 12/15/15. Recommendation dismiss for no violations. Motion made by Smith to dismiss Case #15-30 for no violations, seconded by Roberts, all in favor. Motion carried.
 - b. Any other old business - None**
 - 11. Meeting dates:**
 - a. March 17, 2016 – 9 am**
 - b. May 12, 2016 - Regular meeting – 9 am**
 - c. May 12, 2016 – Annual meeting – 1 pm**
 - d. July 21, 2016 – 9 am**

e. September 15, 2016 – 9 am

f. November 10, 2016 – 9 am

12. Adjournment

Motion made by Burns to adjourn at approximately 12:30 p.m., seconded by Roberts, all in favor. Motion carried.